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PTO Fax Number: (703) 872-9306 Total pages faxed: 4
Examiner: Kathryn P. Odland Art Unit: 3743
Application Number: 09/842,819
Filed: April 26, 2001
Attorney Docket No.: KLYC-01033US4

Re: Amendment and Response to Restriction Requirement

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor(s): James F. Zucherman, Ken Y. Hsu, Charles J.
Winslow, Henry A. Klyce

Appln. No.: 09/842,819

Confirmation No.: 2799

Filed: April 26, 2001

Title: SUPPLEMENTAL SPINE FIXATION DEVICE AND
METHODPATENT APPLICATION

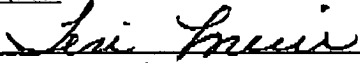
Art Unit: 3743

Examiner: Kathryn P. Odland

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Signature Date: November 4, 2004

AMENDMENT AND RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Alexandria, Virginia 22313-1450

Sir:

This is a response to the Office Action mailed October 4, 2004, setting a period for response expiring
on November 4, 2004.

Prior to responding to the restriction requirement, please amend the above-referenced application as
follows:

RESPONSE TO RESTRICTION REQUIREMENT

The Examiner is requiring a restriction between the following two groups of claims:

- I. Claims 1- 36 and 43-44, drawn to an implant; and
- II. Claims 37-42, drawn to a method of positioning a spinous process.

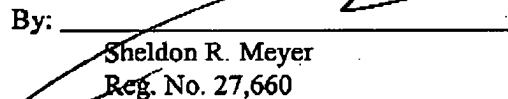
Additionally, the Examiner is requiring that Applicant elect a single species from those noted in the Office Action, and, if applicable, a single subspecies for each category.

For initial prosecution, Applicants hereby elect without traverse, the claims of group I, which include claims 1-36 and 43-44. Further, Applicants elects Species 75, including Figures 152-154c and Hub Subspecies 75-4a, which includes Figures 158a-158b. All claims are readable on the selected Species 75 and claims 1, 2, 4, 7, 13, 14, 15, 16, 17, 18, 20, 23, 28, 29, 30, 31, 33, 34 and 36 are readable on the Subspecies.

In the event that generic claim is allowed, Applicants reserve the right to file additional claims directed toward the subject matter of the generic claim. Applicants also reserve the right to file a divisional application directed to the claims of the non-elected invention.

Respectfully submitted,

Date: November 4, 2004

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